

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF VIRGINIA (RICHMOND)

In Re: ) Case No. 19-34574-KRH  
LECLAIRRYAN PLLC, ) Richmond, Virginia  
Debtor. )  
----- )  
LYNN L. TAVENNER, AS CHAPTER 7 ) July 14, 2022  
TRUSTEE, ) 2:06 p.m.  
Plaintiff, )  
v. ) Adv. Proc. 20-03142-KRH  
 )  
ULX PARTNERS, LLC, ET AL., )  
Defendants. )  
----- )

TRANSCRIPT OF HEARING ON  
MOTION TO APPROVE COMPROMISE UNDER FRBP 9019 (IRON MOUNTAIN)  
FILED BY PAULA S. BERAN OF TAVENNER & BERAN, PLC ON BEHALF OF  
LYNN L. TAVENNER. [ECF NO. 1424];  
APPLICATION FOR ADMINISTRATIVE EXPENSES - APPLICATION FOR ORDER  
ALLOWING AND DIRECTING PAYMENT OF ADMINISTRATIVE EXPENSE CLAIM  
(RELATED DOCUMENT(S)1307 ORDER ON MOTION TO  
SET LAST DAY TO FILE ADMINISTRATIVE CLAIMS) FILED BY NEIL E.  
MCCULLAGH OF SPOTTS FAIN PROOF OF CLAIM ON BEHALF OF PARK  
TOWERS OFFICE INVESTMENT, LLC, PARK TOWERS INVESTMENT, LLC.  
(MCCULLAGH, NEIL) [ECF NO. 1350];  
APPLICATION FOR ADMINISTRATIVE EXPENSES - APPLICATION OF PONTE  
GADEA WASHINGTON, LLC FOR ALLOWANCE AND PAYMENT OF  
ADMINISTRATIVE EXPENSE CLAIM FILED BY THOMAS JOHN MCKEE JR. OF  
GREENBERG TRAUIG ON BEHALF OF PONTE GADEA WASHINGTON, LLC;  
APPLICATION FOR ADMINISTRATIVE EXPENSES AND ORDER ALLOWING  
CHAPTER 11 ADMINISTRATIVEEXPENSE CLAIM FOR POST-PETITION RENT  
(RELATED DOCUMENT(S)1307 ORDER ON MOTION TO SET  
LAST DAY TO FILE ADMINISTRATIVE CLAIMS) FILED BY RICHARD E.  
LEAR OF HOLLAND & KNIGHTLLP ON BEHALF OF CARLYLE OVERLOOK OWNER  
LLC. (LEAR, RICHARD) [ECF NO.1358];  
APPLICATION FOR ADMINISTRATIVE EXPENSES FILED BY LORI D.  
THOMPSON OF SPILMAN, THOMAS BATTLE PLLC ON BEHALF OF LORI D.  
THOMPSON. (ATTACHMENTS: # 1 EXHIBIT(S) A)  
(THOMPSON, LORI) [ECF NO. 1360];  
MOTION TO seal SETTLEMENT AGREEMENT AND RELATED DOCUMENTS,  
INFORMATION, AND HEARINGS FILED BY DAVID G. BARGER OF GREENBERG  
TRAURIG, LLP ON BEHALF OF ULX PARTNERS, LLC,  
ULX MANAGER, LLC, AND UNITEDLEX CORPORATION  
[ECF NO. 1325 AND ECF NO. 207 IN ADV. PRO. NO. 20-03142];  
CASE STATUS AND REPORT PURSUANT TO LOCAL RULE 2015-(A)-(1)(A)

BEFORE THE HONORABLE KEVIN R. HUENNEKENS  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Chapter 7 Trustee:

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TAVENNER & BERAN, PLC  
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For the Office of the U.S.  
Trustee:

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For ULX Partners, LLC and  
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1 For CBC Advisors (India)  
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5 Also Present:

Lynn L. Tavenner, Esq.  
Plaintiff

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24 PROCEEDINGS RECORDED BY ELECTRONIC SOUND RECORDING.

25 TRANSCRIPT PRODUCED BY TRANSCRIPTION SERVICE.

1 THE CLERK: All rise. The Court is now in session.  
2 Please be seated and come to order.

3 THE COURT OFFICER: LeClairRyan PLLC, items 1 through  
4 7 on the amended agenda.

5 MS. BERAN: Good afternoon, Your Honor.

6 THE COURT: Good afternoon.

7 MS. BERAN: For the record --

8 THE COURT: It's good to see you.

9 MS. BERAN: It's wonderful seeing you, Your Honor.  
10 For the record, Paula Beran of the law firm of Tavenner &  
11 Beran. And with me at counsel table this afternoon is the  
12 trustee herself, Ms. Tavenner. As well, Your Honor, in the  
13 virtual courtroom this afternoon, on behalf of the estate, is  
14 Ms. Morabito, as well as Ms. Nelson, special litigation counsel  
15 to the trustee.

16 As indicated, your Honor, we are here today on the  
17 matters listed on the proposed amended agenda found at ECF  
18 number 1488. In support of those matters, and/or in reliance  
19 of the trustee's position, we did file yesterday a declaration  
20 of Ms. Tavenner, and that can be found at ECF number 1485. At  
21 this point in time, Your Honor, I'd respectfully request that  
22 that declaration be admitted into evidence.

23 THE COURT: Does any party object to the admission of  
24 the declaration or wish to cross-examine the trustee?

25 Okay. Okay. Seeing no takers, it's admitted.

1 (Declaration of Lynn Tavenner, ECF 1485, was hereby  
2 received into evidence as of this date)

3 MS. BERAN: Thank you, Your Honor.

4 Your Honor, that brings us to item number 1, which is  
5 a motion to approve compromise, under bankruptcy Rule 9019,  
6 with Iron Mountain. Your Honor likely recalls this matter  
7 being discussed during several case reports at previous  
8 hearings. The trustee and her counsel have been working on  
9 this matter for a very long time with Iron Mountain and its  
10 counsel.

11 Your Honor likely remembers Iron Mountain's counsel  
12 from your days as a Chapter 7 trustee. It is still the firm of  
13 Hackett Feinberg, out of Boston, Massachusetts, specifically,  
14 Mr. Frank McGinn. The trustee has worked with Mr. McGinn for  
15 more years than both care to admit, but none of us would know  
16 him if he walked through that door, because we've never met  
17 him.

18 And as Mr. McGinn transitions to retirement, a female  
19 in his firm, Ms. Jacqueline Price, has taken over the Iron  
20 Mountain representation. The trustee desires to express her  
21 gratitude to Ms. Price and Iron Mountain for its  
22 professionalism in this process. It really is a testament, or  
23 they are a testament of how the process in bankruptcy should  
24 work, with what likely will be one of the estate's largest  
25 trade creditors.

1           There have been no ugly pleadings. There have been no  
2 negative representations. And other than a mention in  
3 connection with case reports, Your Honor may not even have  
4 known Iron Mountain was actively involved in this case, even  
5 though the transition of client files, of which most are  
6 located at Iron Mountain, was one of the primary reasons  
7 pointed to for the need to file a Chapter 11 bankruptcy case.

8           So Your Honor, Iron Mountain has been involved since  
9 almost the day Ms. Tavenner was appointed. Ms. Tavenner worked  
10 closely with Iron Mountain and her wind-down team members to  
11 better understand the document storage process and related  
12 procedures. She worked with Iron Mountain and the wind-down  
13 team to unclog the logjam that related to the transition of  
14 client files.

15           And once that process was completed, pursuant to Your  
16 Honor's orders, the attention turned to resolving what Iron  
17 Mountain maintained was a substantial claim against the Chapter  
18 7 estate, of course, which the trustee disputed. There was a  
19 mutual exchange of a substantial amount of information and  
20 continued constant dialogue.

21           Don't get me wrong, Your Honor, Ms. Price and I have  
22 had our moments where we have agreed to disagree, but we always  
23 remained focused on a solution. And our clients, too, desired  
24 that solution and actively participated in trying to find one.

25           So Your Honor, when that solution was reached, we were

1 all excited, as Your Honor likely could tell from my tone  
2 during the last hearing when I reported to Your Honor that we  
3 had reached a settlement and would be bringing that before Your  
4 Honor at the next omnibus hearing. And Your Honor, we did file  
5 that 9019 motion, and to date, there have been no objections  
6 received.

7 While in connection with preparing for today's  
8 hearing, the trustee did do her declaration. And as she  
9 drafted that declaration, as Ms. Tavenner does in every aspect  
10 of her life, she approaches everything with honesty, candor,  
11 and openness. So as she drafted that declaration, she too then  
12 had to make representations in connection with that  
13 declaration.

14 Specifically, Your Honor, it was always intended that  
15 she represented near the end of the negotiations, and it became  
16 part of the actual motion, that she intended to seek this  
17 Court's authority to pay Chapter 11 administrative expenses in  
18 2022.

19 Specifically, at paragraph 8 of that declaration, Ms.  
20 Tavenner states:

21 "Since this Court established the administrative claim  
22 bar date of May 31, 2022, I have worked towards resolution of  
23 all asserted administrative claims. Given my progress on the  
24 same, and the added factor that I had reached a large  
25 settlement that, pending court approval, would (a) bring

1 substantial sums into the estate in the near future, and (b)  
2 foster a systematic reduction of costs, when I negotiated the  
3 terms of the Iron Mountain settlement and authorized the filing  
4 of the 9019 motion, I fully intended that I would be in a  
5 position to file a request with this Court to pay Chapter 11  
6 administrative expenses in 2022.

7 "At the time of executing this declaration, I remain  
8 hopeful that I will be able to request authority to pay in  
9 2022, but am concerned about whether I will now be in a  
10 position to do the same, given issues related to the recent  
11 appeal noted on the docket in this case, at ECF number 1480, on  
12 July 11th, 2022 by the Office of the United States Trustee.

13 "I have already taken steps to address those issues  
14 and intend to do everything in my power, that is within my  
15 fiduciary duties and is in the best interests of this estate,  
16 to protect this estate such that it is able to pay all  
17 administrative and priority claims in full and make a  
18 meaningful distribution to general unsecured creditors.  
19 However, there are items that can negatively impact the same  
20 that are beyond my control."

21 Your Honor, I'm sure you can appreciate, when that  
22 message was provided to Iron Mountain, its concern. So there  
23 were long, long discussions yesterday as it relates to what to  
24 do today and how to address it.

25 And as Ms. Price said it best, she, on behalf of Iron



1 Mountain, doesn't want the UST appeal to unravel a year's worth  
2 of negotiations that resulted in the great settlement  
3 structure. So both the trustee and Iron Mountain desire time  
4 to see what can be done to keep that settlement intact.

5 And Your Honor, one may wonder, why not just kick it  
6 down the road right away, what really is this, you know, less  
7 than a week? But Your Honor, as you will also see in the  
8 settlement structure, under the proposed settlement, there were  
9 payments that were supposed to start going to Iron Mountain in  
10 August. That also is very important to Iron Mountain.

11 So Your Honor, an initial short continuance allows  
12 Iron Mountain to consider the impact, and gives all an  
13 opportunity to assess what is in the best interest of this  
14 bankruptcy estate. Therefore, Your Honor, the trustee and Iron  
15 Mountain respectfully request that this matter be continued  
16 until July 19th at noon.

17 THE COURT: Does any party wish to be heard in  
18 connection with that motion?

19 Mr. Beran, I would be remiss if I didn't say that I'm  
20 deeply disappointed in the Office of the U.S. Trustee in  
21 appearing to interfere in the administration of a Chapter 7  
22 bankruptcy case. I can't remember when that has occurred. I  
23 don't remember the Office of the U.S. Trustee ever substituting  
24 its business judgment for that of a standing Chapter 7 trustee.  
25 And quite frankly, I didn't think that that was the province of

1 the Office of the U.S. Trustee. I will grant the continuance.  
2 Thank you.

3 MS. BERAN: Thank you, Your Honor. Your Honor, the  
4 trustee also did want me to alert Your Honor, right up front,  
5 while I -- subject to the Court still having in-person  
6 appearance, I absolutely will be here in person, but the  
7 trustee would respectfully request if she be allowed to  
8 participate by Zoom.

9 She has another engagement where, candidly, she is  
10 taking her son to the University of Charleston, for of all  
11 things -- and I make fun of the trustee for this, and I feel  
12 sorry for her son, but she is taking him to a STEM camp, and  
13 it's a day camp. So she will be in a hotel in Charleston so  
14 that her son can attend the STEM camp.

15 THE COURT: That's granted as well. And when I do the  
16 hybrid hearings, I do it so that, as we make the transition  
17 back into the courtroom, everybody can get used to doing it.  
18 And I'm certainly not going to penalize anybody for picking  
19 option A or B.

20 MS. BERAN: Thank you, Your Honor.

21 THE COURT: You're welcome.

22 MS. BERAN: Your Honor, that then brings us to item  
23 number 2, which is an application for administrative expenses.

24 Your Honor, you have entered a stipulation to address  
25 this, and as such, the matter may be removed from the Court's

1 docket.

2 THE COURT: That may be removed.

3 MS. BERAN: Thank you, Your Honor.

4 Item number 3 is another application for  
5 administrative expenses. In connection with this, Your Honor,  
6 the movant and the trustee have agreed on the form of a  
7 stipulation and proposed --

8 THE COURT: I think I entered that order about an hour  
9 ago.

10 MS. BERAN: Wonderful, Your Honor. It may be removed  
11 from the docket.

12 THE COURT: All right.

13 MS. BERAN: Similarly, Your Honor -- you may have done  
14 the exact same thing; I apologize, we were in process up  
15 here -- the application for administrative expense by Carlyle  
16 Overlook Owner, that too, we've agreed to a proposed  
17 stipulation. It was filed on the docket. And I do believe Mr.  
18 Leer (ph.) BOP'd that over to the Court either Monday or  
19 Tuesday of this week.

20 THE COURT: There was one that came in and we had some  
21 formatting issues, and so I think that it needed to be  
22 corrected.

23 MS. BERAN: Okay.

24 THE COURT: If it's been corrected and I have it. I  
25 know I reviewed it substantively and it was fine.

1 MS. BERAN: Thank you, Your Honor. So that matter may  
2 be removed from the docket.

3 That then brings us to item number 5, which is an  
4 application for administrative expenses by Ms. Lori D.  
5 Thompson.

6 In connection with that matter, Your Honor, the movant  
7 and the trustee are in active discussions to resolve any and  
8 all matters related to this bankruptcy estate, not just that  
9 Chapter 11 administrative request. Therefore, the trustee  
10 respectfully requests that this matter be continued until the  
11 August 25th omnibus hearing. And the movant, Ms. Thompson, has  
12 consented to such a continuance.

13 THE COURT: Okay. It will be continued then.

14 MS. BERAN: Your Honor, that then brings us to item  
15 number 6, which is the seal request of the UnitedLex entities.

16 Before I turn the podium over, I did want to answer a  
17 question Your Honor indicated would be asked of us all today on  
18 this matter, and that relates to what is commonly referred to  
19 as the FAO procedures. Your Honor, those procedures can be  
20 found in three orders entered by this Court. They are found at  
21 ECF number 533, 929, and 982.

22 The FAO procedures, Your Honor, really remind me of my  
23 mother's favorite saying, no good deed goes unpunished. Your  
24 Honor, I'm sure, recalls the original purpose of those  
25 procedures, efficient administration and appropriate due

1 diligence in a manner that respected privacy. Because, after  
2 all, Your Honor, when those procedures were initially put in  
3 place, we knew, in the beginning, that many of the defendants  
4 would be practicing lawyers who, in certain ways, were not  
5 necessarily at fault for specific actions, but nonetheless, due  
6 to inactions, would be implicated and subject to, at a minimum,  
7 clawback claims.

8 And as my mother predicted, those procedures have been  
9 twisted and turned into something nefarious or negative by  
10 some. But nonetheless, Your Honor, the trustee is proud of  
11 those procedures and does believe that they have been an  
12 efficient way to assist in the administration of this case.

13 So Your Honor, let's talk briefly about those  
14 procedures. In the very beginning, the trustee came before  
15 Your Honor recommending certain procedures, after consultation  
16 and discussions with the Office of the United States Trustee.  
17 Specifically, at that point in time, those discussions were  
18 with Mr. Whitehurst and Ms. Pecoraro.

19 Your Honor tweaked the proposed procedures and entered  
20 the order that is originally at docket number ECF 533.  
21 Thereafter, the trustee sought modification of those  
22 procedures, once again, only after consultation with the Office  
23 the United States Trustee, this time, Ms. Montgomery, Ms.  
24 Pecoraro and Mr. Shorter. And Your Honor again tweaked the  
25 proposed amended procedures and granted it, as modified.

1 One final modification occurred, which does not impact  
2 confidentiality or seal. And that was really addressing the  
3 issues related to the two-year bar statute that was coming up  
4 or that the trustee was facing.

5 And those modifications were proposed to Your Honor,  
6 and once again, Your Honor tweaked them. But they were  
7 proposed to Your Honor after consultation, again, with the  
8 Office of the United States Trustee. This time it was only Ms.  
9 Pecoraro, given that neither seal nor confidentiality was  
10 implicated.

11 So yes, Your Honor, to answer your questions, the FAO  
12 procedures do apply to the settlement. So the next question,  
13 though, Your Honor, is how does one obtain court approval of a  
14 settlement under the FAO procedures?

15 Your Honor, looking at the order found at 533, there  
16 are two ways. Paragraph 4 provides that there can be a  
17 negative notice approval process, where there is seal and  
18 confidentiality addressed in that paragraph, as well as a  
19 procedure for requisite parties to obtain copies of the sealed  
20 documents. Or Your Honor, as found at paragraph 6 of that  
21 order, the trustee can seek approval, under the traditional  
22 way, through a 9019 motion.

23 So then, Your Honor, the next question that the  
24 trustee had me do, in order to answer your questions, she  
25 wanted to know if any of the modification orders changed that.

1 And so when you look at order found that ECF number 929, that  
2 did modify paragraph 4. But Your Honor, it just made it more  
3 explicit and specific as it related to true creditors being  
4 able to obtain copies of any sealed documents, as opposed to an  
5 individual or entity who may be wanting to do it for litigation  
6 purposes.

7 And then, Your Honor, looking at item number 982, as  
8 indicated, that did not impact seal, confidentiality, and/or  
9 any type of approval of settlement. It addressed the pending  
10 issues related to the pending two-year statute.

11 So Your Honor, yes, the FAO procedures apply, and the  
12 settlement can be approved either by negative notice or 9019.  
13 And Your Honor even pointed that out back during the hearing of  
14 the initial motion to amend in May of 2021.

15 After a colloquy between Mr. McKee and Your Honor,  
16 where Your Honor talked about the two ways to do it, I stood  
17 before you -- and this can be found at lines 12 through 15, on  
18 page 35, at ECF number 906. I said, "Your Honor is directly on  
19 point as it relates to the way the trustee also envisions that  
20 FAO order. The FAO order allows there to be approval of  
21 settlements by either negative notice or by 9019."

22 Your Honor, the settlement at issue in connection with  
23 the seal request did proceed under the "or", via 9019. So the  
24 confidentiality provisions of paragraph 4 are not specifically  
25 applicable, from the trustee's perspective.

1           And as we all know, confidentiality or seal was not a  
2 term of the original settlement construct, but when it was  
3 raised after the fact, the trustee immediately, and has always  
4 maintained, that the minimum is that seal must have the same  
5 protections as if it had been done on negative notice under  
6 paragraph 4 of Your Honor's procedure order. And it must not  
7 prevent the trustee from performing her duties. That was  
8 stated from day one, and that is the trustee's position as she  
9 sits here today.

10           And one final point the trustee did want me to address  
11 before I hand over the podium. She truly appreciates the  
12 concerns of the United States Trustee, as well as the concerns  
13 of UnitedLex. And as it relates to UnitedLex, she understands  
14 that one of their big concerns is protecting its business.  
15 Let's be clear here today, Your Honor, the trustee wants that  
16 business to thrive, first and foremost.

17           Anyone who knows Ms. Tavenner knows she is not a  
18 vindictive person, and instead, is a genuinely good person.  
19 But putting that aside, Your Honor, think about it, and all  
20 parties-in-interest really think about it. It is in the best  
21 interest of this estate for UnitedLex and its subsidiaries to  
22 thrive and make lots of money, such that the estate can receive  
23 the second and third payments under the settlement agreement,  
24 if it is ultimately approved by final order, as quickly as  
25 possible, and have final resolution with UnitedLex.



1           So with that being said, Your Honor, I do turn the  
2 podium over, I believe it's either to Mr. McKee or Mr. Barger,  
3 in that it is their motion. And then I will come back up to  
4 address the last part, item number 7, the case status and  
5 report.

6           And Your Honor, if I may, may I sit down for that?

7           THE COURT: Yes, you may.

8           MS. BERAN: Thank you, Your Honor.

9           THE COURT: All right. It's been a long time since  
10 we've been standing at the podium, right?

11           So who's going to present the motion to seal the  
12 settlement agreement and related documents?

13           MR. BARGER: Your Honor, Good afternoon. This is  
14 David Barger on behalf of UnitedLex. Also present is Mr. McKee  
15 and Mr. Milmoe. I have the honor again today, Your Honor.

16           THE COURT: Okay. Mr. Barger, thank you. Please  
17 proceed.

18           MR. BARGER: Thank you, Your Honor. And a couple of  
19 housekeeping points. One, I apologize that I'm not in person,  
20 now that the Court has allowed that as an option. I was  
21 previously scheduled to be out of town, and I'm still out of  
22 town. And where I'm staying we're in the midst of  
23 thunderstorms, so if you see lightning or hear noise, it's not  
24 me; it's Mother Nature. So that's item number 1, Your Honor.

25           Item number 2, because this deals with our motion to

1 seal, we would request permission to proceed with the rest of  
2 this motion under seal.

3 THE COURT: All right.

4 MR. BARGER: Or to the seal courtroom.

5 THE COURT: Does any party object to sealing the  
6 courtroom?

7 MS. MONTGOMERY: This is Kathryn Montgomery for the  
8 United States Trustee. We would object to that.

9 THE COURT: All right. Do you want to make an  
10 argument, or just state that you object?

11 MS. MONTGOMERY: We're just noting our objection --

12 THE COURT: Thank you, ma'am.

13 MS. MONTGOMERY: -- Your Honor.

14 THE COURT: All right. Does any other party object?

15 All right. Ms. Montgomery, I'm going to overrule your  
16 objection for the time being. Obviously, there could be a  
17 redacted version of today's proceedings at a later time, or  
18 maybe we would totally unseal it. But for purposes of today,  
19 I'm going to seal the courtroom and allow Mr. Barger to proceed  
20 under seal.

21 So at this point, I need to do two things, one, to  
22 seal the virtual courtroom and seal the real courtroom. So I'm  
23 going to ask the parties to do that, Ms. Greenleaf and the  
24 court security officer.

25 (Sealed portion of the hearing from 2:28 p.m. until 3:16

1 p.m.)

2 THE COURT: All right. Let the record reflect that  
3 the courtroom is now open and the virtual courtroom is now  
4 open.

5 All right. Ms. Beran?

6 MS. BERAN: Thank you, Your Honor. Your Honor, we are  
7 now on item number 7 on the proposed agenda, and that is the  
8 case status and report pursuant to the Local Rules.

9 In connection with that, Your Honor, starting with  
10 where we start always, I guess it's near and dear to everyone's  
11 heart, as it relates to cash balances.

12 In connection with what's commonly referred to as the  
13 HSBC operating account, there was \$127,585.96. In connection  
14 with the Virginia Iolta account, there was \$299,775.36. In  
15 connection with what is commonly referred to as the Cape  
16 account, there is \$954,692.37.

17 That then brings us to the accounts that the trustee  
18 maintains through her trustee banking system at Signature Bank.  
19 And specifically, Your Honor, there is a checking account. In  
20 that checking account, there is \$66,766.58, as well as, Your  
21 Honor, a money market account, in which there is -- that is  
22 \$8,465,653.30.

23 Your Honor, these balances reflect the payment of all  
24 allowed Chapter 7 administrative expenses other than amounts  
25 that are due in pursuant to court orders of Your Honor in

1 connection with payments due to Tavenner & Beran.

2 Your Honor, then turning to operations and case  
3 administrative items. As Your Honor, I'm sure, appreciates,  
4 it's only been a little over two-and-a-half weeks since we  
5 stood before you in the virtual courtroom and addressed many of  
6 these items. Given the hour, the trustee respectfully requests  
7 that I only provide an additional update to say that, in  
8 addition to the items last reported, it is likely apparent to  
9 Your Honor that it's been a busy two-and-a-half weeks  
10 addressing claims and appeal items.

11 And as I'm sure Your Honor remembers, the trustee's  
12 brief, in connection with what has been commonly referred to as  
13 the two equity security holder list appeals, that's due at the  
14 district court level next week. So there's been a lot of  
15 activity with the trustee and her counsel in connection with  
16 that brief.

17 With that being said, Your Honor, I would respectfully  
18 turn it over to Ms. Morabito for a brief update on litigation  
19 items.

20 THE COURT: All right. Ms. Morabito?

21 MS. MORABITO: Good morning, Your Honor. Erika  
22 Morabito, Quinn Emanuel, special counsel for the Chapter 7  
23 trustee. Can you hear me okay?

24 THE COURT: I can. Actually, it's afternoon here,  
25 so --

1 MS. MONTGOMERY: Oh, and I am in North Carolina today,  
2 Your Honor, so it's afternoon here too. So maybe you should  
3 not listen to anything else I have to say with that  
4 introduction. I'm sorry about that. I wish I could be in  
5 person; hopefully soon.

6 Your Honor, I will be brief. As Ms. Beran said, as  
7 we've done historically, we just want to walk you through an  
8 update from the last status.

9 So I'm going to start with UnitedLex. That's going to  
10 be pretty quick. Obviously, Your Honor, we share the  
11 sentiment, it goes without saying, in being just deeply  
12 disappointed in the appeal, but we're here in purposes of next  
13 steps for the appeal, so Your Honor has these calendar dates in  
14 your mind. July 25th is the deadline for the U.S. Trustee to  
15 file their designations of record and statement of issues on  
16 appeal. The appellate brief is due thirty days from the date  
17 of the designation of records transmitted to the district  
18 court. And then the appellee's brief is thirty days from the  
19 date that the appellant's brief is filed and served.

20 But because of the appeal, obviously, we were looking  
21 forward to August 2nd, which was the first date of the closing,  
22 where the estate had anticipated getting initial payments of  
23 14.75 million into the estate. That now is unfortunately  
24 delayed, which does impact some of the work that Quinn Emanuel  
25 is doing, as special litigation counsel, in other matters that

1 we've been working on.

2 One of those matters, it's really not a matter, but  
3 it's something that came up at the last hearing that I do want  
4 to address, that had to do with Foley and Quinn talking about  
5 how to resolve any issues, or at least a procedure to resolve  
6 issues with respect to the two firms, as it relates to fees.

7 We're mindful of that and your instruction. And prior  
8 to Monday, we have had a discussion about -- preliminary  
9 discussions about a way to get there, at least in terms of  
10 presenting an agreed-upon procedure to Your Honor. Both firms  
11 take that very seriously. We do think we're going to get to an  
12 agreement. It's just not the appropriate time right now, given  
13 all that's going on.

14 We're going to continue to work on that. We do have  
15 other matters that are still left to be resolved. So in the  
16 meantime, if Quinn is to file any further interim applications,  
17 fee applications, which we do expect to file them probably  
18 tomorrow, we will continue to protect and make sure that all  
19 the reservations and rights from all parties are included in  
20 any future -- in our order, as we've done in the past.

21 We'll also draw language from Your Honor's previous  
22 order with respect to reservation of rights. But everybody's  
23 rights are protected. Two firms can then get together at the  
24 appropriate time to come up with a procedure, and we'll present  
25 that to the Court. But both firms are working intimately

1 together to try to get to a -- not just a procedure but an  
2 ultimate resolution. So I did want to update you on that.

3 With respect to the other FAO actions, we were before  
4 Your Honor on June 28th. My colleague, Ms. Nelson, gave you an  
5 update at that time, where we were with settlements. It's not  
6 that long ago, but we did settle a couple more with another  
7 90,000 dollars that will be coming into the estate. And we  
8 continue to make progress on these cases.

9 As Your Honor will see, and consistent with previous  
10 reporting at omnibus hearings, we will be filing, tomorrow, a  
11 notice of settlement that memorializes approximately fifteen  
12 more settlements that have been reached under the FAO order.

13 So in total, for all FAO matters, including UnitedLex,  
14 for about two years, two-and-a-half years, there's been an  
15 approximate settlement totaling 40.6 million dollars. That  
16 amount does include the UnitedLex settlement of 21 million, as  
17 well as approximately 19.6 million dollars of other settlements  
18 that the Chapter 7 trustee has been responsible for bringing  
19 into the estate.

20 Of those that remain, Your Honor, you may recall, when  
21 we first started the special litigation at Foley, and then  
22 transitioning over to Quinn, we initiated more than 220 demand  
23 letters. We have about sixteen matters left that are pending  
24 in various jurisdictions and states, state law claims.

25 In addition, we have obviously dismissed certain

1 counts to some of the lawsuits, due to settlements that have  
2 been entered or approved by this Court. In light of the  
3 appeal, with respect to those litigation matters that were tied  
4 up as part of the overall global settlement, we have talked to  
5 counsel for each of those parties, including CBC and the other  
6 litigants that were party to the CBC litigation, the  
7 individuals. We've reached agreements with them to enter into  
8 tolling agreements, or extensions, or a continuance until the  
9 appeal has been resolved. All counsel are working amicably to  
10 make sure that that gets done.

11 Other than that, Your Honor, we think the progress has  
12 been very great to date, in just under two years, for a case as  
13 complex as this. The Chapter 7 trustee has done a great job.  
14 We're going to continue to prosecute, mediate, and settle the  
15 remaining cases.

16 If anything's left -- we hope that it's not -- we'll  
17 certainly set trial dates of those, if needed, and we would do  
18 that in the near future. Obviously, the Chapter 7 trustee is  
19 focused on getting through the administration of the estate as  
20 quickly as she can.

21 So I have nothing further, Your Honor. I'm happy to  
22 answer any questions.

23 THE COURT: Does any party have any questions or  
24 comments?

25 MS. ROSENBERG: Yes, Your Honor, this is Erin



1 Rosenbergwith White & Case. Can you hear me?

2 THE COURT: I can, ma'am. Please proceed.

3 MS. ROSENBERG: Thank you, Your Honor. Again, Erin  
4 Rosenberg with White & Case, counsel for CBC Advisors (India)  
5 Private Ltd. (ph.). I'm here also with my local counsel Mikay  
6 Saes (ph.) and Roy Rogers (ph.). I've been admitted pro hac  
7 vice.

8 I just wanted to put in one minor point of  
9 clarification to Ms. Morabito's statement. We received a  
10 request today to accommodate that tolling that she described.  
11 We have it under consideration. We'll reach out and we'll  
12 communicate with her further. But I just wanted it to be clear  
13 on the record that that's something that we're going to  
14 discuss. And I'm sure you'll hear more from the parties on  
15 that in due course.

16 THE COURT: All right. Thank you very much, ma'am.

17 Does any other party wish to be heard?

18 All right. Back to you, Ms. Beran.

19 MS. BERAN: Thank you, Your Honor. Your Honor, that  
20 concludes the items on today's agenda as proposed by the  
21 trustee. The trustee, as Your Honor is aware, is in the  
22 courtroom, and is happy to answer any questions Your Honor may  
23 have and/or any other party-in-interest may have of her.

24 THE COURT: All right. Thank you.

25 Is there any other business we need to take up in this

1 matter today?

2 All right. Hearing none, again, I share the remarks  
3 that were made earlier about the wonderful job that the Chapter  
4 7 trustee continues to do in administering this case. And keep  
5 up the good work and thank you.

6 MS. BERAN: Thank you.

7 THE COURT: We'll be adjourned.

8 THE CLERK: All rise. Court is now adjourned.

9 (Whereupon the sealed portion of this hearing concluded at  
10 3:27 PM)

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I N D E X

EXHIBITS: DESCRIPTION MARK ADMIT

FOR THE DEBTOR:

Declaration of Lynn Tavenner, 5  
ECF 1485

RULINGS: PAGE LINE

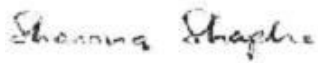
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FRBP 9019 (Iron Mountain) is continued  
to July 19, 2022

Application for administrative 12 13  
expenses by Ms. Lori D. Thompson  
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C E R T I F I C A T I O N

I, Sharona Shapiro, the court-approved transcriber, do hereby certify the foregoing is a true and correct transcript from the official electronic sound recording of the proceedings in the above-entitled matter.



July 15, 2022

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SHARONA SHAPIRO

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DATE

AAERT Certified Electronic Transcriber CET-492

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